

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL WAYNE PARSONS,

Defendant.

4:17CR3038

MOTION TO COMPEL
DEFENDANT TO SUBMIT TO
TUBERCULOSIS TESTING

Comes now the United States of America pursuant to 28 U.S.C. § 1651, (the All Writs Act), and moves the Court for an Order requiring the defendant, MICHAEL WAYNE PARSONS, (Parsons), to submit to testing for tuberculosis conducted by suitably trained correctional officers, staff members or Deputy United States Marshals. In the event the defendant refuses to cooperate with such testing, the United States asks the Court to authorize the reasonable use of force to effectuate such testing. In support of the Motion the United States shows the Court the following:

1. On April 19, 2017, an indictment was returned by a grand jury sitting in the District of Nebraska charging Michael Wayne Parsons with being a felon in possession of a firearm in violation of Title 18, United States Code, Section 922(g)(1).
2. At the time he was indicted in the District of Nebraska, Parsons was awaiting disposition of various state charges in Tipton County, Tennessee. On September 1, 2017, Parsons was sentenced to three years in the Tennessee state prison system for failing to appear.

3. On September 12, 2017, the government filed a Motion for Writ of Habeas Corpus Ad Prosequendum with the United States District Court for the District of Nebraska seeking to have the Court order the retrieval of the defendant from the Tipton County Jail in Covington, Tennessee, where he was incarcerated, for the purpose of bringing him to the federal courthouse in Lincoln, Nebraska, for an initial appearance. The Motion was granted and a writ was issued commanding that Parsons be taken into federal custody and brought to Nebraska to face charges.
4. On or about September 27, 2017, Parsons was taken into custody by the United States Marshals Service and transported to a federal holding facility in Tennessee, to await transfer to the District of Nebraska.
5. It is the policy of the United States Marshals Service that prior to the movement or transport of a prisoner, the prisoner must be medically cleared. It is also the policy of the United States Marshals Service that such prisoners be medically screened for tuberculosis and other respiratory infectious diseases.
6. In accordance with the USMS policy, medical personnel at the facility where he was being held attempted to conduct a tuberculosis screening of Parsons. On each and every occasion, Parsons refused to submit to tuberculosis testing.
7. Because of Parsons' refusal to submit to tuberculosis testing the United States Marshals Service had to make alternate arrangements to transport Parsons to the District of Nebraska where he is currently being held at the Saline County Jail.

His continued refusal to submit to such testing has required his placement in segregation to avoid endangering other inmates.

WHEREFORE, the United States moves this Court for an Order requiring the defendant, MICHAEL WAYNE PARSONS, to submit to testing for tuberculosis conducted by suitably trained correctional officers, staff members or Deputy United States Marshals. In the event the defendant refuses to cooperate with such testing, the United States asks the Court to authorize the reasonable use of force to effectuate such testing. The United States respectfully submits such an Order is needed not just to comply with policies of the United States Marshals Service but for the additional purpose of protection of other inmates, correctional employees, Deputy United States Marshals and court personnel.

UNITED STATES OF AMERICA,
Plaintiff

ROBERT C. STUART
Acting United States Attorney
By: s/Jan W. Sharp
JAN W. SHARP (#16934)
Assistant United States Attorney
1620 Dodge Street, Suite 1400
Omaha, Nebraska 68102-1506
(402) 661-3700

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on December 18, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the parties of record

s/Jan W. Sharp
JAN W. SHARP (#16934)
Assistant United States Attorney